

I certify that the attached is a true and correct copy of HB 1833, which was filed of record on MAR 12 1987 and referred to the committee on: Natural Resources

Betty Messersmith
Chief Clerk of the House

FILED MAR 12 1987

1987 MAR 24 PM 4:42

HOUSE OF REPRESENTATIVES

T. Orrell
By _____

HB. No. 1833

A BILL TO BE ENTITLED

AN ACT

relating to the preparation and submission of an environmental impact analysis to the Texas Water Commission in certain instances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 11, Water Code, is amended by adding Section 11.1272 to read as follows:

Sec. 11.1272. ADDITIONAL REQUIREMENTS: ENVIRONMENTAL IMPACT ANALYSIS. (a) A person who applies for a permit to store, take, or divert more than 5,000 acre feet of water a year must prepare and submit with the application an analysis of the effect that the actions allowed by the permit will have on the environment.

(b) The commission shall assess the environmental effect of the activities allowed under the permit according to the applicant's environmental impact analysis.

(c) The environmental impact analysis required by this section must demonstrate that the applicant:

(1) used a logical process to assess environmental impacts;

(2) considered all reasonable alternatives; and

(3) relied on the assessment of environmental impact to support decisions made in planning the project.

(d) The environmental impact analysis shall:

(1) include a brief, complete, and accurate description of present conditions of the project area, and a

1 discussion of the probable future conditions that would exist in
2 the area in the absence of the project;

3 (2) include a brief, complete, and accurate
4 description of the scope, purpose, and cost of the proposed
5 project;

6 (3) identify reasonable alternative plans;

7 (4) identify the major environmental benefits and
8 detriments of the proposed project;

9 (5) identify the beneficiaries and nonbeneficiaries of
10 the proposed project;

11 (6) discuss efforts made to deal with environmental
12 problems; and

13 (7) determine if adverse environmental impacts can be:

14 (A) eliminated completely;

15 (B) reduced to an acceptable level; or

16 (C) mitigated by a counteracting measure.

17 (e) The organization of an environmental impact analysis
18 that is consistent with the guidelines established by Subsections
19 (b) and (c) of this section is acceptable if the analysis answers
20 the following questions:

21 (1) what are the alternatives to the project;

22 (2) what area would be served by the project;

23 (3) what effect does the project have on regional
24 population movement and density;

25 (4) what effect does the project have on energy
26 conservation and development or on the use of agricultural land;

27 (5) how would the project fit into long-term regional

1 development plans;

2 (6) what deterioration of air, land, water, or scenic
3 quality, if any, would result from the proposed project;

4 (7) what enhancement of air, land, water, or scenic
5 quality, if any, would result from the proposed project; and

6 (8) will the project adversely or beneficially affect
7 the streams, bays, and estuaries of the state.

8 (f) An applicant who has prepared a federal environmental
9 impact statement for the proposed project may file the federal
10 environmental impact statement instead of the environmental impact
11 analysis required by this section, to be used in assessing the
12 effects issuing the permit will have on the environment.

13 SECTION 2. This Act takes effect September 1, 1987, and
14 applies to an application filed on or after that date. An
15 application filed before that date is governed by the law in effect
16 when the application was filed, and that law is continued in effect
17 for that purpose.

18 SECTION 3. The importance of this legislation and the
19 crowded condition of the calendars in both houses create an
20 emergency and an imperative public necessity that the
21 constitutional rule requiring bills to be read on three several
22 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

1987 MAY -5 PM 7:30
HOUSE OF REPRESENTATIVES

1st Printing

By Smith of Travis

H.B. No. 1833

Substitute the following for H.B. No. 1833:

By Smith of Travis

C.S.H.B. No. 1833

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20 emergency and an imperative public necessity that the
21 constitutional rule requiring bills to be read on three several
22 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

5-4-87
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 1833 have had the same under consideration and beg to report
(measure)
back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes () no An actuarial analysis was requested. () yes (X) no
An author's fiscal statement was requested. () yes (X) no

The Committee recommends that this measure be placed on the ~~(Local)~~ ~~(or)~~ ~~(Consent)~~ Calendar.

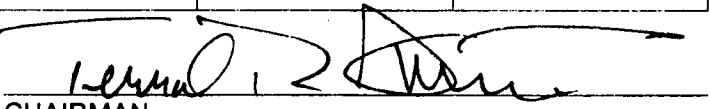
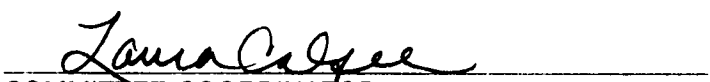
This measure (X) proposes new law. (X) amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Harris, J., V.C.	X			
Johnson, C., C.B.O.				X
Hammond	X			
Holzheuser		X		
Russell		X		
Shelley	X			
Toomey	X			
Yost		X		

Total
5 aye
3 nay
0 present, not voting
1 absent


CHAIRMAN

COMMITTEE COORDINATOR

HB 1833
By: Terral Smith

Committee on
Natural Resources

BILL ANALYSIS

Background

Major reservoirs built in Texas are subject to a requirement that a federal environmental impact statement be prepared, but it is not required until well after a state water rights permit has been issued for the project. Current Texas law requires the Texas Water Commission to "consider the effect" of the issuance of a permit on water quality, instream uses, and fish and wildlife habitat, and to protect freshwater inflows to bays and estuaries. No actual mechanism is specified for how those considerations will be incorporated in the water rights permitting process.

Purpose of the Bill

This bill would require certain permit applicants to submit an environmental impact analysis with their application.

Section by Section Analysis

SECTION 1. Amends Chapter 11, Water Code, by adding Section 11.1272, which provides that certain permit applicants must submit an analysis of environmental effects, that the analysis must demonstrate that the applicant has met certain requirements, and that the Commission shall assess the environmental effect of the activities allowed under the permit. Also provides for certain requirements of the analysis and a certain organization to the analysis, and that an analysis prepared as a federal environmental impact statement may be substituted.

SECTION 2. Effective date is September 1, 1987. Non-retroactive clause.

SECTION 3. Emergency clause.

Rulemaking Authority

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

Summary of Committee Action

Public notice was posted in accordance to the rules and a public hearing was held on Wednesday, April 15, 1987. The bill was referred to subcommittee consisting of the following members: Representative T. Smith, Chair, Representative Hammond and Representative Yost. On April 28, 1987, the subcommittee met in a formal meeting and voted to report the measure as substituted.

On May 4, 1987, the full committee voted to report HB 1833 to the House as substituted with a recommendation that it do pass by a record vote of 5 ayes, 3 nays and zero present, not voting.

The following person testified in favor of HB 1833:

Ken Kramer, Consultant
Sierra Club

The following persons served as resource witnesses on HB 1833:

Larry Soward, Executive Director
Texas Water Commission

Dean Robbins, Engineer
Texas Water Commission

The following person testified in opposition to the original HB 1833:

Edward Feith, Houston Lighting and Power, representing
Association of Electric Companies of Texas

Comparison of the Original Bill to the Substitute

The original bill required the impact statement of all applicants for permits to store, take or divert more than a certain amount of water per year. The substitute requires the statement from applicants for permits to store water.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 3, 1987

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: House Bill No. 1833
By: T. Smith

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1833 (relating to the preparation and submission of an environmental impact analysis to the Texas Water Commission in certain instances) this office has determined the following:

No fiscal implication to the State or units of local government is anticipated.

Source: Water Commission;
LBB Staff: JO, HES, JWH, JG, PA

H. B. No. 1833

By [Signature]

A BILL TO BE ENTITLED
AN ACT

relating to the preparation and submission of an environmental
impact analysis to the Texas Water Commission in certain instances.

MAR 12 1987

1. Filed with the Chief Clerk.

MAR 23 1987

2. Read first time and Referred to Committee on Natural Resources

MAY 4 1987

3. Reported favorably (~~unfavorably~~) and sent to Printer at 7:45 pm
(as substituted)

MAY 5 1987

4. Printed and distributed at 7:30 pm MAY 4 1987

MAY 6 1987

5. Sent to Committee on Calendars at 10:52 am

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)
(Record Vote of _____ yeas, _____ nays, _____
present, not voting).

7. Motion to reconsider and table the vote by which H.B. _____ was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas,
_____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____
present, not voting).

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote
of _____ yeas, _____ nays, _____ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed
prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____
nays, and _____ present, not voting).

12. Ordered Engrossed at _____

13. Engrossed.

14. Returned to Chief Clerk at _____

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on _____

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments,
(as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments)
(Substitute) by a (Non-Record
Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____

HOUSE OF REPRESENTATIVES
1987 MAY -5 PM 7:30

1833